

FILED

BOARD OF OPTOMETRISTS

JUN 11 2003

*Susan Gartland*  
Susan Gartland  
Executive Director

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF OPTOMETRISTS

IN THE MATTER OF A DISCIPLINARY  
ACTION AGAINST OF THE LICENSE OF

ALICIA N. DORMAN, O.D.  
License No. 27 OA 005143

TO PRACTICE OPTOMETRY  
IN THE STATE OF NEW JERSEY

Administrative Action

FINAL DECISION AND ORDER  
AFTER UPL EXPLANATION

This matter was opened to the New Jersey Board of Optometrists (hereinafter the "Board") on an investigation of an advertisement published in the March 19, 2003 issue of the Citizen which advertised services by Anthony J. Boni, O.D. and Alicia N. Dorman, O.D. hereinafter ("Respondent"). The advertisement also indicated that the Respondent "specialized in contact lenses , thin, light lenses and Varilux progressive bifocals."

The investigation revealed probable violations of N.J.A.C. 13:38-1.2 (f) which deems it to be deceptive advertising for an optometrist to utilize the terms "specialist", "specialty" or the substantial equivalent in any advertisement. Other violations also determined included failure to include the optometrist license and certification number on all advertisements as required by N.J.A.C. 13:38-1.2(l) and a violation of N.J.A.C. 13:38-1.2(g) by continuing to use for more than two years from the date of the succession to the practice of another optometrist the name of the deceased optometrist in an advertisement. The Board's records demonstrated that Anthony J. Boni, O.D. was expired for at least two years.

On April 29, 2003, a Uniform Penalty Letter (hereinafter "U.P.L.") was sent to Respondent setting forth the initial findings of the Board and offering Respondent the opportunity to settle this matter by acknowledging the violations and paying an aggregate civil penalty in the amount of

\$500.00 reflecting the following:

1. A civil penalty of \$250.00 for the using the term "specializing" in violation of N.J.A.C. 13:38-1.2(f)2.
2. A civil penalty of \$250.00 for continuing to advertise the name of a practice after two years have elapsed since the date of succession to the practice in violation of N.J.A.C. 13:38-1.2(g).

In addition the letter directed Respondent to include her license and certification number in all advertisements as required by N.J.S.A. 13:38-1.2(l). No penalty was imposed for this violation.

Alternatively, Respondent was given the option of either requesting a hearing before the Board or submitting a written explanation and waiving respondent's right to a hearing.

Waiving her right to a hearing, Respondent elected to submit a written explanation in which Respondent maintained that the Professional Service Corporation Act at N.J.S.A. 14A:17-14b(1) authorizes the use of the name of a deceased person whose name was part of the corporate name at the time of his death. Respondent argued that she used the official professional service corporate name in the advertisement which is permitted pursuant to N.J.A.C. 13:38-14(a). To substantiate her explanation she included a copy of the certificate of incorporation which was filed with the secretary of state on November 20, 1979.

At its meeting on May 21, 2003, the Board considered the Complaint and respondent's explanation. With respect to charges of violation of N.J.A.C. 13:38-1.2(f)2, the Board finds that the advertisement in question used the term "specializing." Accordingly, the Board finds that Respondent failed to conform with statutory and/or regulatory obligations as set forth in the UPL and thus it concludes that the violation of N.J.A.C. 13:38-1.2(f)2 occurred. With respect to the charge that the respondent used the name of a deceased optometrist in an advertisement the board finds Respondent's explanation to be credible and thus insufficient proof exists to support

a finding that a violation of N.J.A.C. 13:38-1.2(g) occurred and withdraws the charge and the penalty associated with it.

Based on the foregoing:

IT IS on this 11th day of June, 2003,

ORDERED that:

1. Respondent shall pay to the Board a civil penalty in the total amount of \$ 250.00 for the violation as set forth in the U.P.L. and found as detailed above. Said payment shall be made by certified check or money order payable to the State Board of Optometrists and shall be delivered within ten (10) days of service of this order to Susan Gartland, Executive Director at the Board of Optometrists, P. O. Box 45012, Newark, New Jersey 07101. Failure to remit the payment required by this Order will result in the filing of a certificate of debt.
2. Respondent shall cease and desist from engaging in any of the conduct found herein to be unlawful.

NEW JERSEY STATE  
BOARD OF OPTOMETRISTS

BY: 

Leonard Steiner, O.D.  
President